

United States Bankruptcy Court
Southern District of New York

In re)	FILED
)	US BANKRUPTCY COURT
Kevin Jared Rosenberg,)	2019 AUG 27 P 1:45
)	Bankruptcy
Debtor.)	Case No. 18-35379-cgm
_____)	FOURTH JUDGE, NY
)	
Kevin Jared Rosenberg,)	
)	
Plaintiff,)	Adversary
)	Proceeding No.
v.)	
)	ORAL ARGUMENT IS REQUESTED
Educational Credit Management Corporation (ECMC),)	
)	
Defendant.)	
_____)	

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

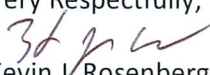
Plaintiff Kevin J. Rosenberg ("Rosenberg") moves this court to grant summary judgment on its complaint that Rosenberg's student loan debt qualifies for discharge under either the Brunner Test or the Totality of the Circumstances test. In support of this motion Rosenberg states as follows:

1. The first element of the Brunner Test is that the debtor must prove that based upon current income and expenses, debtor cannot maintain a minimal standard of living for if forced to repay your loans.
 - a. As indicated by Plaintiff's Chapter 7 filing, Rosenberg is struggling to get by and can barely maintain a minimal standard of living even without the burden of student loan debt.
 - b. There is no dispute about Rosenberg's income or assets so there is no issue of fact that remains.
2. The second element of the Brunner Test is that additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans.
 - a. For ten years Rosenberg worked in the retail industry and ran his own shop. The brick & mortar retail industry has collapsed and there is no indication it will ever rebound as consumers shift their buying habits to online shopping. ("Are more store closings coming? Firm forecasts 'No light at the end of the tunnel'", USA Today, available at <https://www.usatoday.com/story/money/2019/02/13/more-store-closures-expected-2019-new-report/2865505002/>)

- b. Rosenberg has also worked as a mountain guide for more than ten years but multiple back injuries, surgery, and a knee injury have limited his income from guiding in recent years and question his future earnings ability in this profession.
 - c. Rosenberg graduated from law school in 2004 and has been struggling financial for 15 continuous years.
 - d. Defendant ECMC's own expert, Jesse R. Ogren, recognized that after graduating 15 years ago and only practicing law for 2.5 months, there is no practical way to return to the legal profession.
 - i. Mr. Ogren found Rosenberg suitable for jobs as a paralegal, retail store manager, customer service agent, or entry level sales associate, all of which pay far less than would be required to maintain a minimal standard of living and still pay back Rosenberg's law school student loans. (A copy of Mr. Ogren's report is attached as Plaintiff's Exhibit A).
 - e. Since Rosenberg has struggled for 15 years since graduating, added to the collapse of brick & mortar retail and his recent health issues, there is no triable issue of fact that remains concerning whether this state of affair is likely to exist for a significant portion of the repayment period. It already has existed for 15 years and the future looks to be even more of a challenge. Since Defendant's own expert backs this up, Defendant cannot now argue that there will somehow be a magical change of fortune for Rosenberg.
3. The third and final element of the Brunner Test is that the debtor made a good faith effort to repay the loans. In determining 'good faith', the courts look not only at how much of the loan was paid back but also whether the debtor worked to maximize income and minimize expenses.
- a. As indicated by the incomplete records ECMC and Access Lex have provided, Rosenberg made payments on his loan or requested income-based repayment, economic hardship forbearance, or economic deferment throughout the repayment period beginning in 2005, as soon as his Military Forbearance had expired.
 - b. Beginning in 2013 Rosenberg began making \$100 monthly payments to Access Group, as well as income-based payments to Navient. The monthly payment rate to Access Group increased by \$100 each year so that in 2017 Rosenberg was paying \$400 per month. Rosenberg made payments to Navient until they demanded approximately \$1,200 per month and would not agree to take less.
 - c. In terms of maximizing income, when the recession cause Rosenberg to be laid off in 2008, instead of remaining on unemployment, Rosenberg started his own business and dedicated his life to growing it from a street stand to a storefront, working 7 days a week on average, before eventually attracting investors to grow that business even larger before it failed as part of the collapse of brick & mortar retail.
 - d. As for minimizing expenses, over the period of repayment Rosenberg has lived in the basement of his shop and also moved in with family for a period of years. His vehicle is 14 years old and has nearly 200,000 miles on it. Rosenberg has made minimal purchases of household necessities and has avoided purchase of luxury items.

- e. Since ECMC's own documents show that Rosenberg either made payments or tried to work with lenders to pay what he could, ECMC cannot now argue that Rosenberg did not make a good faith effort to repay his loans.
 - f. All of these factors combine to satisfy the "good faith" requirement. As such there is no triable issue of fact for this prong of the Brunner Test.
4. The tide is turning against the idea that student loans should not be dischargeable in bankruptcy. The majority of voters and many candidates for public office recognize that harm this creation of the banking industry has done to many hard working people that are simply down on their luck. There is momentum for overturning this banking industry legislation and even for discharging student loan debt in general.
5. Why should a corporation that negligently loses millions through fraud and carelessness, or a consumer that purchased a house they knew they could never afford, be allowed to get a fresh start through bankruptcy while a man that served his country and tried to better himself through education is denied this second chance?
6. With all of the elements of the Brunner Test satisfied, as well as those of the "Totality of the Circumstances" test, no triable issues of fact remain. Plaintiff therefore respectfully requests that the Court enter summary judgment on its Complaint and dismiss Rosenberg's remaining student loan debt under Chapter 7 so that he may have a second chance at life.

Wherefore, Rosenberg respectfully requests the Court enter an Order granting discharge of his student loan debt, and granting such other relief as the Court may deem fair and just.

Very Respectfully,

Kevin J. Rosenberg
Plaintiff, Pro Se

August 24th, 2019

Kevin J. Rosenberg
Plaintiff, Pro Se
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Beacon, NY 12508
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EXHIBIT A

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NAME: Kevin Rosenberg
ADDRESS: Beacon, New York
AGE: 45
REFERRAL SOURCE: Kenneth L. Baum, Esq.
LAW OFFICES OF KENNETH L. BAUM LLC
167 Main Street
Hackensack, New Jersey 07601
-and-
99 Church Street, 4th Floor
White Plains, NY 10601
REFERRAL DATE: March 14, 2019
DATE OF REPORT: April 15, 2019

VOCATIONAL EVALUATION REPORT

BACKGROUND INFORMATION:

Mr. Kevin Rosenberg is a 45 year old man. This report is intended to operate as a Vocational Evaluation of his skills and abilities to determine his earning capacity. This report is based on an interview and evaluation completed with Mr. Rosenberg on March 22, 2019.

In performing this work I have followed accepted methodologies and standards of practice. As a vocational rehabilitation counselor, case manager and vocational evaluator, I look to the medical community to define the nature and extent of impairment. I translate those limitations and recommendations to the world of work and then provide vocational rehabilitation foundation and expertise to determine the impact of injury on earning capacity. My opinions are based upon my knowledge, training and experience combined with my professional and clinical judgments.

I completed the evaluation with Mr. Rosenberg over the telephone on March 22, 2019. Mr. Rosenberg reported that he lives in Beacon, New York, and that he has started an international, guiding business in January 2019. He is currently working in that capacity, as well as in a part-time position as a security guard for hiking trails.

Corporate and Billing Office:
P.O. Box 489 Luck, WI 54853

Twin Cities Office:
8400 Normandale Lake Blvd, Suite 920
Bloomington, MN 55437

EDUCATIONAL BACKGROUND

Mr. Rosenberg reported that he graduated from Valley Stream North High School located in Franklin Square, New York. He graduated in 1991 and stated that he received good grades, mostly A's and B's. He stated that history class was his favorite during high school. He took part in track, cross-country, rifle, wrestling, model congress, and was a student advisor.

Following high school, Mr. Rosenberg indicated that he attended the University of Arizona, in Tucson. He graduated in 1996 with a Bachelor's of Science in History after changing his major from Aeronautical Engineering. He had a Minor in Math and Political Science as well. Mr. Rosenberg indicated that during school he was involved in ROTC, first in the Army in 1991 and then in the Naval ROTC from 1992. He explained that he had three and one-half years of scholarship from his time in the ROTC, which covered most of his tuition plus a \$100 per month stipend. Following graduation in 1996, Mr. Rosenberg went active duty as a Naval officer and was stationed at bases in Florida, Mississippi, Rhode Island and Virginia.

Mr. Rosenberg explained that he was active duty as a Naval officer until 2000. He was released from active duty and then entered law school. He stated that he attended law school at the Benjamin Cardozo School of Law within the Yeshiva University. He stated that he began in 2001 and was interrupted briefly during a return to active-duty in 2003 during the war. He stated that he was stationed in Crete for six months and that he did not see any combat. Mr. Rosenberg returned to law school and finished in 2004. He passed the bar exam in both New York and New Jersey.

Mr. Rosenberg explained that his bar status is currently retired, after only practicing for two and one-half months as a lawyer. He explained that he would need to complete updated training to resurrect his license to return to work as a lawyer. Mr. Rosenberg has also obtained a licensure for guiding in the state of New York. He explained that he has passed certifications for Wilderness EMT, First Aid, and First Responder.

VOCATIONAL BACKGROUND

Mr. Rosenberg explained that during high school he was employed as a paperboy, a busboy, and in all positions in a pizzeria. He stated that during college he also drove ambulance, drove a wheelchair van, delivered lost luggage for an airport, and drove delivery for a deli. He explained that the ROTC requirements included four credits of school each semester as well as weekly responsibilities that came with that and summer deployments related to his Naval requirements. He stated that during law school, he avoided the typical summer law related jobs because he did not feel like he would want to be a lawyer once it was over.

Upon graduating from law school, Mr. Rosenberg stated that he worked for two and one-half months as a lawyer in the complex commercial litigation area. He stated that during this time, he realized that he really did not want to be a lawyer and he dreaded each day going to work. He stated that he was physically miserable and that his family reported that he seemed unhealthy during those two and one-half months of work as a lawyer. He then left the job. He stated that he

was told during law school that a law degree was the same as a graduate degree, so he began applying for jobs requiring a graduate degree. He received interviews that were mainly based on why he no longer wanted to be a lawyer, and he said that he received no job offers.

Mr. Rosenberg stated that he discovered that a law degree qualifies someone to become a real estate broker in the state of New York. He tried that profession for a short while, but was spending more money than he was making and he left that work. He stated that starting in 2006 he began performing contract legal work as a paralegal. He reported that he signed up with ten different agencies for contract legal work and would receive calls to go over records from agencies. He explained that he made between \$20 and \$40 per hour doing this work between 2006 and 2008. He stated that his best year was in 2007 when he made \$70,000 to \$80,000 working in this capacity. He stated that during the recession in 2008, he was let go and he was on unemployment for half of 2008.

Mr. Rosenberg explained that in 2009, he launched a company called Gear to Go Outfitters. He explained that this company sold outdoor gear and led outdoor tour trips. He stated that he first started out of his living room selling outdoor merchandise as a part of his day hikes and tours. He stated that he then began working as a street vendor selling merchandise and advertising his touring services. He also opened a shop in a brick-and-mortar facility in Brooklyn to sell his products and advertise his services. He stated that in 2017, he acquired an investor that allowed him to expand some of his products and he was able to bring in \$950,000 in revenue in 2018. He stated that despite that best year of earnings in his company, he actually lost money because of the expensive rent and other merchandise and he was forced to sell the company for scrap in December 2018.

Mr. Rosenberg explained that his guiding aspect of the business included mostly local day hikes. He received the certification from the state of New York to provide guiding services. On the retail and rental side of his company, he stated that he would buy products from trade shows and trade reps to sell that were somewhat customized for his business. He stated that the amount of money put into the company to provide the retail facility and merchandise drained the profits, if there was any. He stated that the only salary he obtained from the company was leftover profit which changed year to year.

Mr. Rosenberg explained that he started a new company called International Adventure Guides in January 2019. He stated that he offers guided tours for international travel including adventure hikes, horseback riding and similar activities. He stated that some of the backpacking trips could include overnight stays either through tents or in existing structures. He stated that he himself uses a quality backpack in order to carry the different products and that he uses light weight products to keep down overall weight. He explained that the backpack may weigh between 30 and 40 pounds, but rests on his hips to avoid the weight on his back.

Mr. Rosenberg stated that as a part of this company, he has created a new website using a website building platform. He stated that he has added blog entries and photos, as well as information on the trips that he organizes. He explained that he uses social media to get his name and information out into the public including Twitter and Instagram. He stated that he tries to meet with travel agents for additional business. Mr. Rosenberg indicated that he will need four to

six people to sign up for a trip in order to break even and that he would make up to \$6000 on a sold-out trip. He stated that if he cannot break even he will cancel the trip. The trips on his website include four between April and August for roughly a week each. They cost between \$2,000 and \$5,000 per person for each trip. According to his math, those four trips could earn him \$24,000 if he were to sell them out. It is unclear if he has any others planned for the year past August.

Mr. Rosenberg indicated that he is planning on trying to make his company work and if it does not by the summer of 2020, he will shut it down. He stated that in the meantime, he has taken a part-time job as a security guard for hiking trails locally. He explained that he earns \$15.50 per hour working between sixteen and twenty-four hours a week in this job that has just started. Mr. Rosenberg explained that he also does some very part-time work as an art model that earns him about \$14 to \$20 per hour. On an annual basis, this minimum 16 hour per week job would pay ($\$15.50 \times 16 \text{ hours} \times 52 \text{ weeks} =$) \$12,896.

Mr. Rosenberg explained that he has considered alternative employment if his company does not work out. He stated that he has taught classes in the past for outdoor outfitter organizations such as REI and L.L. Bean and that he knows he could pursue a job doing that full-time. Mr. Rosenberg stated that he believes the teaching jobs would pay between \$25,000 and \$45,000 a year annually. He stated that he has also considered travel agency work or returning to retail to work as a store manager given his experience in that area. He does not have any indication of whether or not he would be able to work in a travel agency or what that would pay.

VOCATIONAL ANALYSIS

Mr. Rosenberg has worked as an entrepreneur in the outdoor industry by starting a company to sell and rent outdoor supplies. He offered guided hikes as a part of that company, and most recently he has sold his retail business and is focused on offering guided hikes as part of his new company founded in 2019. This diverse work experience would be viewed as a retail store manager, as well as a tour guide, per the Dictionary of Occupational Titles. The retail store manager would require up to four years of training to be considered qualified in the role, and lifting could be expected up to 20 pounds for up to a third of the work day. As the owner of a small retail store, it is likely that Mr. Rosenberg was responsible for lifting far greater than that amount on a daily basis.

From the Dictionary of Occupational Titles:

“Manages retail store engaged in selling specific line of merchandise, such as groceries, meat, liquor, apparel, jewelry, or furniture; related lines of merchandise, such as radios, televisions, or household appliances; or general line of merchandise, performing following duties personally or supervising employees performing duties: Plans and prepares work schedules and assigns employees to specific duties. Formulates pricing policies on merchandise according to requirements for profitability of store operations. Coordinates sales promotion activities and prepares, or directs workers preparing, merchandise displays and advertising copy. Supervises employees engaged in sales work, taking of inventories, reconciling cash with sales receipts, keeping operating records, or preparing daily record of transactions for ACCOUNTANT, or

performs work of subordinates, as needed. Orders merchandise or prepares requisitions to replenish merchandise on hand. Ensures compliance of employees with established security, sales, and record keeping procedures and practices. May answer customer's complaints or inquiries. May lock and secure store. May interview, hire, and train employees."

The tour guide position would require up to two years of training to be considered qualified and would also require lifting up to 20 pounds for up to a third of the work day. Mr. Rosenberg's description of his back pack, and the type of hiking performed would put this job at a medium level.

From the Dictionary of Occupational Titles:

"Arranges transportation and other accommodations for groups of tourists, following planned itinerary, and escorts groups during entire trip, within single area or at specified stopping points of tour: Makes reservations on ships, trains, and other modes of transportation, and arranges for other accommodations, such as baggage handling, dining and lodging facilities, and recreational activities, using communication media, such as cable, telegraph, or telephone. Accompanies tour group and describes points of interest. May assist tourists to plan itinerary, obtain travel certificates, such as visas, passports, and health certificates, and convert currency into travelers' checks or foreign moneys."

Mr. Rosenberg is a trained attorney with a law degree and a license to practice in both New Jersey and New York as a result of passing the bar exam. His bar license is currently in retired status as he has not kept up with the CLE's or fees since he last practiced law. He last practiced law in the mid 2000's and for only a few months at that time. If he wished to return to work as an attorney, he would need to update the CLE credits as required by the states of New York and New Jersey, and pay the necessary fees. It is not clear from the websites of those states how many credits or fees would be required to regain his license.

As it has been almost fifteen years since Mr. Rosenberg practiced law, a more likely avenue for a return to that type of work would be the job he held after he left his job as a lawyer. He worked as a paralegal for temporary organizations in 2006 through 2008. He stated that his job was to review documents, and that he earned between \$70,000 and \$80,000 in 2007 in this role. This position would require up to four years of training to be considered qualified as a paralegal according to the DOT. The lifting required in this role would be up to 20 pounds for up to a third of the work day.

From the Dictionary of Occupational Titles:

"Researches law, investigates facts, and prepares documents to assist LAWYER: Researches and analyzes law sources such as statutes, recorded judicial decisions, legal articles, treaties, constitutions, and legal codes to prepare legal documents, such as briefs, pleadings, appeals, wills, contracts, initial and amended articles of incorporation, stock certificates and other securities, buy-sell agreements, closing papers and binders, deeds, and trust instruments for review, approval, and use by attorney. Appraises and inventories real and personal property for estate planning. Investigates facts and law of case to determine causes of action and to prepare

case accordingly. Files pleadings with court clerk. Prepares affidavits of documents and maintains document file. Delivers or directs delivery of subpoenas to witnesses and parties to action. May direct and coordinate activities of law office employees. May prepare office accounts and tax returns. May specialize in litigation, probate, real estate, or corporation law. May prepare real estate closing statement and assist in closing process. May act as arbitrator and liaison between disputing parties. May act as law librarian, keeping and monitoring legal volumes and ensuring legal volumes are up-to-date.”

Mr. Rosenberg has a variety of work settings that he has performed over the last fifteen years. He continues to work as tour guide, and he has a new part-time job as a security officer. The potential salary of his current role as a tour guide appears to be minimal, as he stated that he will be giving the company until the summer of 2020 to determine if he will be able to make it work. He continues to have the skills to return to work as a retail store manager, as he has done over the last several years. Similarly, his law degree would continue to qualify him to return to work as a paralegal, despite not working in that field since 2008. The job requirements to become a paralegal are far below the completion of a law degree.

The types of past work he has performed would impart transferrable skills into a variety of other work settings. Mr. Rosenberg has obtained skills in customer service and sales from his work as a tour guide and retail store manager. His experience in law school and his work as a paralegal and short stint as an attorney would provide the skills to operate in an office environment performing professional level communication. He is a trained writer and communicator as an attorney, and he has performed research and review of documents as a paralegal. Mr. Rosenberg has skills obtained through his time as a Naval Officer, managing and supervising staff for several years before returning to law school. These experiences have served him as he had the discipline and ability to become an entrepreneur, pursuing his interests as a vocation since 2009.

Other employment that would be available to Mr. Rosenberg as a result of his transferrable skills would be as a customer service worker or general sales. He has experience working closely with customers in the past, which is similar to the job duties in these positions, and that could allow him to continue to pursue his interests in a job. Customer service jobs could be performed over the phone or in person at various businesses, and sales positions could be performed over the phone (inside sales) or in person within a retail setting or on location (outside sales). Sales positions would be available in the outdoor equipment space or related industries.

According to the tax records for Mr. Rosenberg, his business was intertwined with his income for at least some of the years 2013-2017. In 2013 his wages are listed as \$0 with the business income listed as \$21,751. In 2014 his wages are listed as \$0 with business income listed as \$19,955. In 2015 his wages are listed as \$22,917. In 2016 his wages are listed as \$81,250, and in 2017 his wages are listed as \$54,783. It is unclear what his actual wage was during these years aside from 2016 and 2017, if those are accurate take home wage numbers. A better view of his actual income would be to look at the Social Security statements which reflect the wages each year that required Social Security tax to be paid. That number would exclude other earnings or expenses from his business.

MEDICAL BACKGROUND

Mr. Rosenberg explained that he had a disability rating from his time in the military for tinnitus. That rating is ten percent and that he has since applied for additional ratings for sleep apnea and a back condition. He stated that he underwent back surgery in 2017 including a laminectomy and discectomy at the L5 and S1 level. He stated that he injured his back in 2016 and that he goes to the VA for treatment. The VA approved the surgical procedure in 2017. He stated that as a result of that surgery, he had to cancel all of his hiking trips for the summer of 2017 which impacted his business.

Mr. Rosenberg explains that he continues to suffer from symptoms of that back surgery and that when he moved out his remaining merchandise from his business in December 2018, he re-injured his back. He stated that he had to lift heavy items and he did not have any help, which caused him pain for several days. He stated that he worried he had seriously re-injured his back, but it has improved. As a result of his back injuries, he does limit how much he lifts, but his doctor has not given him any specific limitations. He stated that he avoids overly physical trips or high-altitude trips for work, or lifting heavier items. He explained that he tries to strengthen his core as a form of treatment, and that he had to work to lose the 30 pounds he gained following the surgery.

Mr. Rosenberg reported that he has an additional disk herniation at the L4-L5 level. He has not received any treatment yet. He is going to the VA hospital for an issue with his right knee. He stated that he had an appointment the day following our evaluation to get that checked out.

MEDICAL & CHIROPRACTIC RECORDS REVIEWED

Veterans Administration Records

OTHER RECORDS REVIEWED

Tax Records 2013-2017

VOCATIONAL REHABILITATION POSSIBILITIES

Mr. Rosenberg is currently employed as a part-time security guard, earning \$15.50 per hour for 16 hours per week. He is working on his new company, to create a demand for guided hiking tours that would provide him an income. He has reduced the scope of his business, as he no longer has a store to maintain or retail merchandise to sell. This change also reduces his ability to earn income, as he must wait to sell trips with a maximum number of participants. If he does not have that ability, he will lose out on work that has already been performed for the trip with nothing to show for it. It is not clear what he expects to earn from this company year-to-year. Based on maximum earnings from our discussion about his current jobs, it appears that he could earn $(\$24,000 + \$12,896 =)$ \$36,896 in a year. It appears from his website and our discussion that Mr. Rosenberg is no longer pursuing business as a tour guide for hiking day trips in New York State.

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In a return to other work, beyond the business that he is currently pursuing, I have performed a labor market survey in the geographical region around his home in Beacon, New York. Mr. Rosenberg has recently relocated to Beacon from his previous home in Queens after the closure of his retail store. According to the train schedule, a trip from Beacon Station to Grand Central Station in Manhattan would be a commute of 90 minutes one way. The geographical locale considered for job opportunities in this survey will include job postings at companies from this area and closer to his new home.

Mr. Rosenberg stated that if he were to be unsuccessful in this company that he would seek to return to work close to what he has performed in the past. Those jobs would be as a retail store manager, teaching outdoor classes, or potentially as a travel agent. He stated that he would not be returning to work as a lawyer. In a job search around the Beacon, New York area, many retail store manager or assistant manager positions were found. These jobs, attached to this report, include a sales manager for Verizon stores, a manager trainee with Aldi, a manager trainee with CVS, and an assistant manager position with PetSmart, and have a range of earnings from \$45,000 to \$100,000. They all appear to be within Mr. Rosenberg's qualifications. Positions found that did not provide earnings data include outdoor retailers North Face and Arc'Teryx. These retail companies are similar to his own previous business and the jobs are non-entry level positions. The Bureau of Labor Statistics provides earnings for retail managers as between \$53,000 and \$208,000 in the state of New York.

Paralegal positions available within Mr. Rosenberg's geographical locale are plentiful. The job postings found that include wage data are attached to this report. These are some of the jobs that would be within his qualifications as a trained and previously licensed attorney.

Legal Secretary/Paralegal
Middletown, NY
\$42,000-\$60,000 annually

Secretary/Paralegal
Goshen, New York
\$52,000-\$55,000

Paralegal Matrimonial Law
White Plains, New York
\$65,000-\$80,000

Probate Paralegal
Westchester, New York
\$50,000-\$65,000

Litigation Paralegal/Legal Assistant/Office Manager
Rye, New York
\$75,000-\$100,000

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Direct Hire Paralegal
Millbrook, New York
\$40,000-\$45,000

Paralegal
Purchase, New York
\$75,000-\$80,000

Legal Secretary/Paralegal
Middletown, New York
\$42,000-\$60,000

Paralegal
Midtown New York, NY
\$60,000-\$80,000

Paralegal
Midtown New York, NY
\$80,000-\$120,000

Litigation Paralegal
Midtown New York, NY
\$60,000-\$70,000

Real Estate Legal Assistant
New York, NY
\$70,000-\$80,000

Paralegal Investment Management
Bowling Green, NY
\$65,000-\$85,000

Compliance Administrative Specialist
New York, NY
\$80,000-\$120,000

The positions as a legal assistant or paralegal would be within the qualifications of Mr. Rosenberg based on his law degree. Some are in specific industries where he has not worked directly, but it would be up to the employer to determine if his law degree would qualify him for employment. Mr. Rosenberg stated that he earned up to \$80,000 as a paralegal in 2007, and these postings indicate that he could obtain a salary in at least that amount in a return to work in this area. These postings indicate a range of salaries from \$42,000-\$120,000 per year, and none of them require completion of a law degree as a qualification.

Other occupations that could be available to Mr. Rosenberg include jobs in customer service, sales, and related communications based professions. The job search for these occupations are

similar to those described above, and would relate the transferrable skills he obtained in his past occupations. These jobs include: sales management trainee at \$49,000 per year, sales account representative for \$36,000 to \$50,000 per year, community outreach associate for \$45,600 per year, and many other job postings in a variety of sales or customer service areas. These occupations included in this report require qualifications similar to Mr. Rosenberg's experience, and reflect opportunities that do not rely solely or heavily on commission sales. Opportunities in these areas that may provide earnings data can include insurance sales or credit card processing sales that present a high salary potential, but rely extensively on commission. Those types of positions are not represented here.

SUMMARY AND DISCUSSION:

Mr. Rosenberg is currently employed by his new business, an international adventure tour guiding company. He has taken a part-time job to provide a salary as he tries to get the company off the ground, as a security officer sixteen hours per week. He has worked for himself since 2009, when he opened Gear to Go, which was a retail outdoor company as well as a tour guide business. He stated that he sold the company in 2018 when expenses exceeded profits at the company. Prior to that Mr. Rosenberg worked as a paralegal from 2006-2008 through temporary services. He has not used his legal training since that time.

Mr. Rosenberg had completed his law degree in 2004, passing the bar exam in New Jersey and New York, but he only worked as a lawyer for a few months. Before attending law school, he spent several years in active duty as a naval officer after completing his undergraduate degree.

While working as a paralegal in 2007, Mr. Rosenberg stated that he earned between \$70,000 and \$80,000. It is my opinion that this level of earnings would represent his demonstrated earning capacity. He earned this level of income by using his training as an attorney and he worked as an employee for a company.

Over the past five years from 2013-2017, Mr. Rosenberg has earned \$0 to \$81,250 according to his tax records. It is unclear if any of these numbers are actual take home salary for Mr. Rosenberg because of the setup of his business. I am not an accountant and I do not intend to provide opinions on his actual earnings based on his tax returns in those years. A look at his Social Security statement of earnings may provide a better indication of his earnings throughout this time.

According to Mr. Rosenberg, in 2019 he could earn up to \$12,896 as a security guard and \$24,000 based on his ability to sell out the four trips he has offered on his website. That would be a total income for 2019 of \$36,896. It is not clear if he will be offering more trips beyond the four that are listed.

Mr. Rosenberg could alternatively return to employment opportunities he would have based on his past work and experience. He has recently worked as the manager of a retail store, and within his geographical locale four current job openings were found complete with salary data. These three jobs paid a range of \$45,000 to \$100,000 per year. He would be considered qualified for these positions and would have room to grow within these companies over the course of a career.

Mr. Rosenberg could return to his past work as a paralegal, where multiple current job openings are available in his area. The job posts that provided potential salary information have a range in salary potential from \$42,000 to \$120,000 per year. His completion of a law degree would place him above the qualifications of other applicants for these positions and his experience in management as a Naval Officer and retail manager would be beneficial. Based on the labor market research, this is an area of high demand and Mr. Rosenberg would likely be able to obtain salary similar to what he had earned in 2007 of \$70,000 to \$80,000 per year or higher.

If he chose to pursue work as a retail store manager, his potential earnings would be based on the job he chose to pursue. The salary range in the retail manager positions were found between \$45,000 and \$100,000 per year and within his qualifications. There are jobs within his specific area of expertise and interest, outdoor recreation equipment, within his geographical area as well. These specific openings do not provide salary information, but they would be above the entry level based on their descriptions. The Bureau of Labor Statistics has a median salary in New York for this job of \$124,000 per year. Pursuing continued employment in this industry may provide higher future wages than he could find using his past training as a lawyer.

Other areas of employment that Mr. Rosenberg could potentially pursue, would include using the skills he has obtained in his past work experience. Customer service or entry level sales positions would be available to him based on the jobs found in my labor market research. These occupations would allow for direct entry to employment and offer salary potential from \$36,000 to \$50,000 per year. These types of occupations would be more plentiful than the specific job titles of paralegal or legal assistant, or retail store manager, within the labor market.

Based on Mr. Rosenberg's past work and earnings history, it is my opinion that he continues to be employable at his demonstrated earning capacity of at least \$80,000 per year which he obtained as a paralegal. The occupations found for paralegals provide starting salaries above and below that number, as well as qualification requirements that would provide an access to employment for Mr. Rosenberg.

Beyond that position, it is my opinion that Mr. Rosenberg would have access to employment in a variety of settings including retail store management, customer service occupations, and sales positions. The salary potential of these occupations range from \$36,000 to \$100,000 per year as demonstrated by the labor market research performed for this report.

The medical documents provided for this report do not indicate any specific physical limitations or restrictions placed on Mr. Rosenberg by his doctors. He is currently employed as an international tour guide, performing outdoor hikes while carrying supplies in a backpack including camping supplies. All of the occupations mentioned in this report as potential job options for Mr. Rosenberg would require less physical ability than his current position.

The opinions expressed are based upon a reasonable degree of vocational rehabilitation certainty as well as professional experience as a vocational rehabilitation counselor. I have also relied on texts such as the Dictionary of Occupational Titles and the Handbook for Analyzing Jobs, and The Bureau of Labor Statistics Occupational and Employment Statistics.

Re: Rosenberg, Kevin

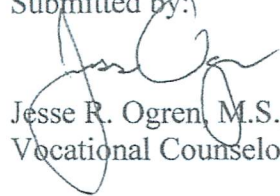
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The opinions expressed in this report are subject to change based on new or additional information.

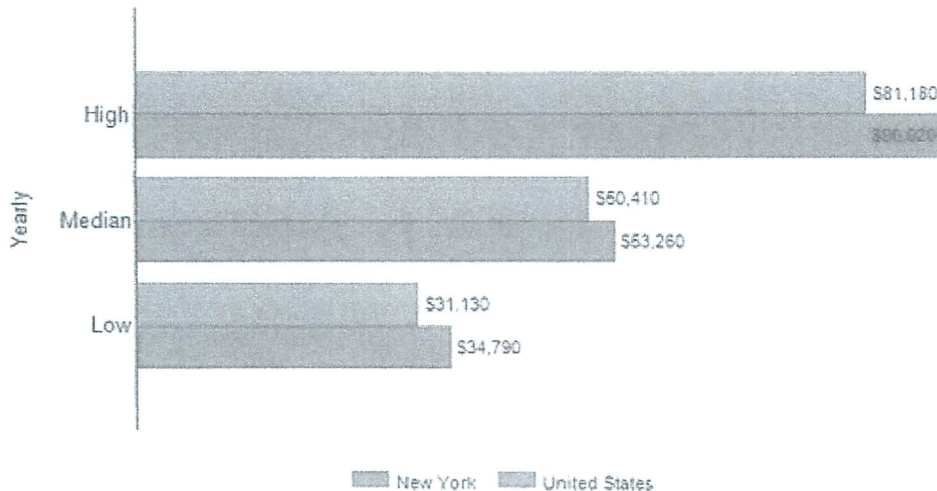
If you have any questions regarding the information provided in this report, please do not hesitate to contact my office at (612) 353-5154.

Submitted by:



Jesse R. Ogren, M.S., C.R.C., L.P.C.
Vocational Counselor and Evaluator

JRO:jo

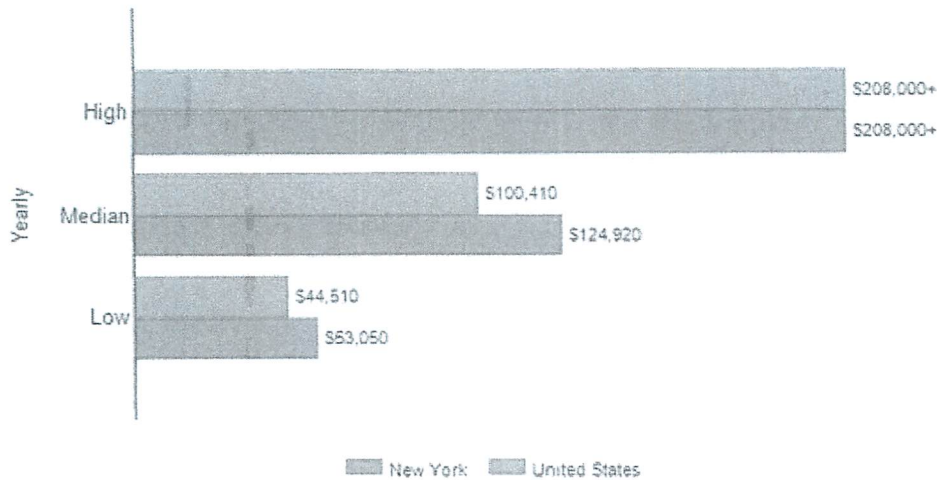
Wages for Paralegals and Legal Assistants in NEW YORK[View Hourly Wages](#)[View Table](#) : [View Chart](#) : [View Map](#)**Occupation Description****Paralegals and Legal Assistants**

Assist lawyers by investigating facts, preparing legal documents, or researching legal precedent. Conduct research to support a legal proceeding, to formulate a defense, or to initiate legal action. Excludes "Legal Secretaries".

<https://www.careeronestop.org/Toolkit/Wages/find-salary.aspx?keyword=Paralegals%20and%20Legal%20Assistants&soccode=232011&location=NEW%20YORK>

Wages for General and Operations Managers in NEW YORK

View Hourly Wages

[View Table](#) : [View Chart](#) : [View Map](#)**Occupation Description****General and Operations Managers**

Plan, direct, or coordinate the operations of public or private sector organizations. Duties and responsibilities include formulating policies, managing daily operations, and planning the use of materials and human resources, but are too diverse and general in nature to be classified in any one functional area of management or administration, such as personnel, purchasing, or administrative services. Excludes First-Line Supervisors.

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